REMARKS/ARGUMENTS

Claims 1-23 are present in this application.

Claims 1-8, 11 and 12 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,456,093 to Finley et al. in view of "Capacity Control System." This rejection is respectfully traversed.

At the outset, Applicants respectfully submit that the Office Action again fails to set forth a *prima facie* case of obviousness. As in previous rejections, in discussing the Finley patent, the Office Action merely provides that "Finley shows the claimed system with the exception of the selector switch for switching between a high and low load capacity." The Office Action does not reference where in the Finley patent any of the claimed features are disclosed or suggested. In fact, the Office Action does not reference a single passage or drawing element in the Finley patent. As discussed in more detail below, there are clear and significant distinctions between the invention and the Finley patent, taken singly or in combination with the "Capacity Control System" article.

With reference to claim 1, Finley and "Capacity Control System" lack at least the claimed plurality of sensors strategically positioned on the main boom that cooperatively define position zones of the platform. A "zone" by its very definition comprises a certain range or area, which is consistent with the description in the specification, rather than a discrete point. As described in the specification, by defining position zones of the platform, rather than utilizing sensors for determining exact (discrete) platform positions, considerably less expensive limit switches and the like may be used. In contrast, the Finley system utilizes continuous devices that are effective to determine an exact (discrete) position of the platform. Finley describes

exemplary devices as a pendulum transducer, length transducer, pressure transducer, and load cells. See, for example, column 9, lines 43-55.

Finley and "Capacity Control System" also lack the claimed control system that receives output from the plurality of sensors to determine in which position zone the platform is located. As noted, since the sensors in the Finley device are used for determining a discrete position of the platform, Finley lacks any such control system that communicates with the sensors to determine a platform position zone. Finley and "Capacity Control System" still additionally lack any control of a predefined envelope of the platform based on a position of the selector switch and operation of the main boom based on which position zone the platform is located in. The Finley system does not in any manner define a predefined envelope for platform positioning. Rather, the positions of the platform are limited based on a load on the platform, which varies presumably up to the maximum rating of the machine. As such, the boundaries for platform positioning also vary as the load changes. In contrast, as defined in claim 1, for example, the platform position envelope is predefined for each capacity selection, regardless of the actual load carried on the platform.

Still further, the Office Action recognizes that Finley lacks at least the claimed selector switch for selecting between a plurality of capacity modes including at least a low load load and a high load load. The Office Action contends that "Capacity Control System" teaches the use of such a selector switch and that it would have been obvious to incorporate a selector switch in the Finley system. Applicants respectfully disagree with this conclusion.

In order to operate as intended, the Finley system utilizes a plurality of load cells and pressure transducers for determining a load and a position of the load on the platform. See, for example, column 11, lines 1-13. The control system in Finley limits positions of the platform

based on the detected load and its position on the platform. With this structure, the Finley system has no need for the claimed selector switch. In fact, the Finley system would not function as intended if the system was modified to include such a selector switch. Even under the Supreme Court's decision in *KSR International Co. v. Teleflex Inc.*, a conclusion of obviousness still requires that there is some teaching, suggestion, or motivation to modify the reference or combine reference teachings. As the proposed modification is in fact contrary to operation of the Finley system, Applicants respectfully submit that there is no such teaching, suggestion or motivation to make the combination asserted in the Office Action.

Applicants thus respectfully submit that the rejection of claim 1 is misplaced.

Independent claim 5 similarly defines a plurality of sensors that cooperatively define position zones of the platform. Claim 5 further recites that the position zones defined by the sensors comprise a plurality of angle regions corresponding to an angle of the main boom relative to gravity and a plurality of length regions corresponding to a telescoped length of the main boom. As noted, the Finley patent lacks any teaching or suggestion of the claimed position zones as discussed above. As such, Finley also lacks such zones comprising a plurality of angle regions and a plurality of length regions as claimed. Applicants thus submit that the rejection of claim 5 is also misplaced.

Independent claim 12 defines subject matter related to that defined in claim 1. Applicants thus respectfully submit that the rejection of claim 12 is also misplaced for at least the reasons discussed above with regard to claim 1.

With regard to the dependent claims, Applicants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim. Moreover, claim 2 recites that the control system is configured such that when the selector switch is in the high load

mode, the control system selectively prevents at least one of the lift/lower function and the telescope function based on which position zone the platform is located in. With reference to the comments above, this subject matter is also lacking in Finley and "Capacity Control System." Although claim 2 is included in the rejection, the Office Action does not refer to any teaching in any reference that meets this subject matter. Claim 3 defines a specific angle of the main boom relative to gravity in which the control system selectively prevents at least one of the lift/lower function and the telescope function. This subject matter is lacking in the references of record, and the Office Action also does not address this subject matter. Claim 6 specifies that the position zones defined by the plurality of sensors comprise eight angle regions corresponding to the angle of the main boom relative to gravity and four length regions corresponding to the telescoped length of the main boom. This subject matter is also lacking in Finley and "Capacity Control System," and the Office Action similarly does not address this subject matter. Claim 7 defines a schedule of position zones where the control system is configured to permit the main boom lift/lower function and telescope function. As noted, since Finley and "Capacity Control System" lack any such position zones, it is clear that the subject matter of claim 7 is also distinguishable. The Office Action similarly does not address this subject matter. Claim 8 recites that the plurality of sensors comprise limit switches. Although the use of limit switches in and of themselves is known, such limit switches are not disclosed in the Finley system and in fact would be unable to provide the functionality required by the Finley system. Finally, claim 11 recites that the control system controls a position of the selector switch according to a sensed load on the platform. As noted above, no such selector switch is disclosed in the Finley system nor would such a selector switch be desirable or functional in the Finley system.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 8 and 9 were rejected under 35 U.S.C. §103(a) over Finley in view of "Capacity Control System" and U.S. Patent No. 5,058,752 to Wacht et al. The Wacht patent, however, does not correct the deficiencies noted above with regard to Finley and "Capacity Control System." As a consequence, Applicants submit that dependent claims 8 and 9 are allowable at least by virtue of their dependency on an allowable independent claim. Withdrawal of the rejection is requested.

Claim 12 was rejected under 35 U.S.C. §103(a) over Finley in view of "Capacity Control System" and U.S. Published Patent Application No. 2003/0173151 to Bodtke et al. The Bodtke publication, however, does not correct the deficiencies noted above with regard to Finley and "Capacity Control System." As such, Applicants respectfully submit that claim 12 is distinguishable for at least the reasons discussed above with regard to claim 1. Withdrawal of the rejection is respectfully requested.

Applicants acknowledge with appreciation the indication of allowable subject matter in claim 10.

In view of the foregoing remarks, Applicants respectfully submit that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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